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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No. 6579 of 2007

PETITIONER		Sanyasi Ram Budek, s/o Late Shri Janak Ram Budek, aged about 57 years, Principal, Model Govt. Higher Secondary School, Saraipali, R/o Saraipali, Tahsil Saraipali, District Mahasamund (CG)
		Versus
RESPONDENTS	1	State of Chhattisgarh, Acting through Secretary, Govt.of Chhattisgarh Department of School Education, DKS Bhavan, Mantralaya, Raipur(CG)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri K.A.Ansari, Sr. Advocate with Shri Syed Imtiyaz Ali, counsel for the petitioner.

Shri Pradeep Singh, Panel Lawyer for the State on advance copy.

ORAL ORDER
(19.11.2007)

SUNIL KUMAR SINHA, J

Heard.

The petitioner, who is working on the post of Principal, Government Adarsh Higher Secondary School, Sariapali, District Mahasamund, has been transferred from Saraipali to Government Higher Secondary School, Hasda, District Dhamtari on administrative grounds.

Learned counsel for the petitioner argues that on earlier occasion, i.e. on 11.8.2006, the petitioner was transferred from Saraipali to Govt. Higher Secondary School, Nardaha, District Raipur on administrative grounds. That order was challenged by the petitioner before this Court in W.P.No.4616/2006. The points raised were that in the year 2004, the State Government has decided

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to introduce CBSE course in 15 schools and in order to teach in those schools, certain teachers were trained and the petitioner was one of those teachers, but he was transferred to the School where CBSE course was not introduced. On this ground, the petition was disposed of and the petitioner was allowed to file a representation before the concerned authority and the concerned authority was directed to dispose of the representation after consideration of all these points and till then, it was directed that the petitioner shall not be relieved if he has not already been relieved.

Learned counsel submits that thereafter, the representation was filed and the earlier transfer order of the petitioner was cancelled by the Government on 10.11.2006. He submits that thereafter again this impugned order has been issued and now again the petitioner is being transferred to the institution, where there is no CBSE course. Therefore, the action appears to be unjust. He also submits that the petitioner is entrusted with the work of distribution of books of Pathya Pustak Nigam and if he is transferred from his present place of posting, that work will also suffer. He further submits that the books are also in the charge of the petitioner.

In fact, these are not the grounds for interfering with the order of transfer of an employee, who holds a transferable post. If the Government does not want to utilize the services of the employee in the best possible manner according to his qualification and education, that itself does not give any right to the employee to file a petition for quashing of the order of transfer or challenge the decision of the Government.

Once this Court has already intervened and has referred the matter for representation and at that time, the order of transfer of the petitioner was cancelled, but if the petitioner is again transferred to such institution that by itself does not constitute malafide. The Government may take a different stand in different scenario looking to the prevailing administrative exigency and the public interest.

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Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rule or Act, the same cannot be interfered with by a Court of Law.

Learned counsel for the petitioner could not point out any such ground of malafide or extraneous consideration or that the order has been passed against any statutory rule or the Act.

It only appears that the Government has not taken care that the petitioner holds the qualification for teaching CBSE syllabus and it is for the Government to think that how they can utilize the services of the petitioner.

I do not find any ground of malafide or extraneous consideration in the order impugned. The petition is not worth admission and the same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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